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EXAMINER

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ART UNIT	PAPER NUMBER
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3628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/475,961	Applicant(s) SMITH ET AL.	
	Examiner Shannon S. Saliard	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-12,14-19,21-30,32-37,39-55 and 57-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-12,14-19,21-30,32-37,39-55 and 57-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Applicant has amended claims 1, 3-5, 7-11, 14, 15, 17-19, 21-26, 28-30, 32-36, 39-45, 47-55, and 57-60. Claims 6, 13, 20, 31, 38, 46, and 56 have been cancelled. No claims have been added. Thus, claims 1-5, 7-12, 14-19, 21-30, 32-37, 39-45, 46-55, and 57-60 remain pending and are presented for examination.

Response to Arguments

2. Applicant's amendments filed 8 December 2006, with respect to the rejections of claims 1, 15, 26, 40, 41, and 51 under 35 U.S.C., 112, Second Paragraph have been fully considered and are persuasive. The rejections of claims 1, 15, 26, 40, 41, and 51 under 35 U.S.C., 112, Second Paragraph have been withdrawn.

3. Applicant's amendments filed 8 December 2006, with respect to the rejection under 35 U.S.C. 101, have been fully considered but they are not persuasive.

4. Applicant argues, with respect to the use of Juedes as a reference, that the Examiner does not cite to or rely on the disclosure of Provisional Application No. 60/149,501. Examiner submits that the properly filed Provisional Application No. 60/149,501 to Juedes contains the same disclosure as the International Application of Juedes (WO 01/13261). Thus, Juedes is properly citable as a reference.

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

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where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Marks is related to ordering products online that must be delivered to a buyer [col 17, lines 49-55].

Furthermore, Marks provides the motivation that providing users with various selected levels of access prevent unauthorized purchases [Abstract].

6. Applicant's arguments with respect to claims 1, 15, 26, 40, 41, and 51 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-5, 7-12, 14-19, 21-30, 32-37, 39-45, 46-55, and 57-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Juedes et al. (WO 01/13261) in view of Kirsch (US 5,963,915), Marks (US 6,876,977), and Baumann et al (US 7,082,408).

W.R.T. **Claim 1**, Juedes et al. discloses a method for managing the delivery of an order from at least one supplier to a delivery agent, and from the agent to a buyer, comprising the steps of (see pages 4-6; Tables 1-14; Figs. 1-18 and the descriptions thereof): calculating a first potential arrival date of the order to a respective delivery agent's location, using the server system based on an order request date and a respective buyer's address (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof); determining an ability of the respective delivery agent to ship the order based on the first potential arrival date (see *Id.*); determining a delivery date to the buyer when there is sufficient delivery agent capacity to ship the order to the respective buyer's address (see *Supra* Figs. 11-15); and updating an electronic manifest indicating the delivery date of the order and a change in delivery agent capacity for the delivery date (see *Id.*) Juedes et al does not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are repeated to determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)- (4) for determining a delivery date to repeat the steps to determine a new delivery date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b)

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whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user.

However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67).

Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order

change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 2:** The modified method of Juedes et al. further discloses the method, wherein the step of determining the first potential arrival date includes the step of selecting the first potential arrival date from a supplier ship schedule based on the day the order is placed plus a fixed delay (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 3:** The modified method of Juedes et al. further discloses the method, wherein the step of determining an ability includes the step of calculating a number of slots to be shipped from a work unit matrix (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 4:** The modified method of Juedes et al. further discloses the method including the step of multiplying each item in the order by the work unit selected from a work unit matrix to determine the number of slots for the order (see Id.).

W.R.T. **Claim 5:** The modified method of Juedes et al. further discloses the method, wherein the step of determining a delivery date to the respective buyer when there is sufficient capacity to ship the order further comprises the step of determining a

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first available date that the order is completely shipped to the respective buyer based on a capacity matrix and based on a number of available slots (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 7:** The modified method of Juedes et al. further discloses the method including the step of getting a zip code to which the order is to be delivered and a brand of a respective good in the order (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 8:** The modified method of Juedes et al. further discloses the method including the step of getting a the supplier ship schedule based on the zip code and the brand of respective good ordered (see Id.).

W.R.T. **Claim 9:** The modified method of Juedes et al. further discloses the method including the step of selecting the respective delivery agent and a respective a capacity matrix based on the zip code of the order (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 10:** The modified method of Juedes et al. further discloses the method including the step of determining a first potential ship date to the respective buyer's address based on the capacity of the respective delivery agent and the delivery schedule of the respective delivery agent (see Id.).

W.R.T. **Claim 11:** The modified method of Juedes et al. further discloses the method, wherein the step of allowing order change that affects the delivery date of the order to be made further includes the step of allowing the order change to be made using an external order interface (see Figs. 1-2 and Supra columns of Kirsch).

W.R.T. **Claim 12:** The modified method of Juedes et al. further discloses the method including the step of updating the electronic manifest with status information (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 14:** The modified method of Juedes et al. further discloses the method, wherein the step of calculating a first potential arrival date of the order to a respective delivery agent's location further comprises calculating a first potential arrival date of the order, wherein the order information comprises the order request date, a model number, a quantity of items, a brand of the an item, a service to be selected, a requested delivery date, the respective buyer's delivery address, a security level clearance, and status information. (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 15,** Juedes et al. discloses a method comprising the steps of (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof): calculating a first potential arrival date of the order to a respective delivery agent's location, using the server system based on the order request date and the respective buyer's address (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof); determining an ability of the respective delivery agent to ship the order within a set of potential delivery dates based on the first potential arrival date and a first date the respective delivery agent is prepared to ship the order, selecting an actual delivery date from the set of potential delivery dates (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof); and updating an electronic manifest indicating the delivery date of the order and a change in delivery agent capacity for the delivery date (see Id.) Juedes et al does

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not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are repeated to determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)-(4) for determining a delivery date to repeat the steps to determine a new delivery date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user. However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67). Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al.

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Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 16:** The modified method of Juedes et al. further discloses the method, wherein the step of determining the first potential arrival date includes the step of selecting the first potential arrival date from a supplier ship schedule based on the day the order is placed plus a fixed delay (see pages 4-6', Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 17:** The modified method of Juedes et al. further discloses the method, wherein the step of determining an ability includes the step of calculating a number of slots to be shipped from a work unit matrix (see Id.).

W.R.T. **Claim 18:** The modified method of Juedes et al. further discloses the method comprising the step of multiplying each item in the order by a work unit selected from the work unit matrix to determine the number of slots for the order (see Id.).

W.R.T. **Claim 19:** The modified method of Juedes et al. further discloses the method, wherein the step of selecting an actual delivery date from the set of potential delivery dates further comprises the step of determining a first available date to completely ship the order to the respective buyer based on a capacity matrix and based on a number of available slots (see pages 4-6', Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 21:** The modified method of Juedes et al. further discloses the method including the step of getting a zip code to which the order is to be delivered and a brand of a respective good in the order (see Id.).

W.R.T. **Claim 22:** The modified method of Juedes et al. further discloses the method including the step of getting the respective supplier ship schedule based on the zip code and the brand of the respective good ordered (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 23:** The modified method of Juedes et al. further discloses the method including the step of selecting the respective delivery agent and a respective a capacity matrix based on the zip code of the order (see Id.).

W.R.T. **Claim 24:** The modified method of Juedes et al. further discloses the method including the step of determining a first potential ship date to the respective buyer's address based on the capacity of the respective delivery agent and the delivery schedule of the respective delivery agent (see Id.).

W.R.T. **Claim 25:** The modified method of Juedes et al. further discloses the method, wherein the step of calculating a first potential arrival date of the order to a respective delivery agent's location further comprises the order request date, a model number, a quantity of items, a brand of the item, a service to be selected, a requested delivery date, the respective buyer's delivery address, a security level clearance and status information (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 26,** Juedes et al. discloses a computer program storage medium readable by a computer system and encoding a computer program of instructions for executing a computer process, the computer process comprising the steps of (see pages 4-6, Tables 1-14', Figs. 1-18 and the descriptions thereof): determining a first potential arrival date of the order to a respective delivery agent's location, based on the order request date and the respective buyer's address', determining an ability of the respective delivery agent to ship the order based on the first potential arrival date, determining a delivery date to the respective buyer when there is sufficient delivery agent capacity to ship the order to the respective buyer's address (see Id.); and updating an electronic manifest indicating the delivery date of the order and a change in delivery agent capacity for the delivery date (see Id.) Juedes et al does not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are

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repeated to determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)- (4) for determining a delivery date to repeat the steps to determine a new delivery date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user. However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67). Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 27:** The modified process of Juedes et al. further discloses the process, wherein the step of calculating the first potential arrival date includes the step of selecting the first potential arrival date from a supplier ship schedule based on the day the order is placed plus a fixed delay (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 28:** The modified process of Juedes et al. further discloses the process, wherein the step of determining an ability includes the step of calculating a number of slots to be shipped from a work unit matrix (see Id.).

W.R.T. **Claim 29:** The modified process of Juedes et al. further discloses the process including the step of multiplying each item in the order by the work unit selected from a work unit matrix to determine the number of slots for the order (see Id.).

W.R.T. **Claim 30:** The modified process of Juedes et al. further discloses the process, wherein the step of determining a delivery date to the respective buyer when there is sufficient capacity to ship the order further comprises the step of determining a first available date that the order is completely shipped to the respective buyer based on a capacity matrix and based on the number of available slots (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 32:** The modified process of Juedes et al. further discloses the process including the step of getting a zip code to which the order is to be delivered and a brand of a respective good in the order (see Id.).

W.R.T. **Claim 33:** The modified process of Juedes et al. further discloses the process including the step of getting the supplier ship schedule based on the zip code

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and the brand of the respective good ordered (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 34:** The modified process of Juedes et al. further discloses the process including the step of selecting the respective delivery agent and a respective a capacity matrix based on the zip code of the order (see Id.).

W.R.T. **Claim 35:** The modified process of Juedes et al. further discloses the process including the step of determining a first potential ship date to the respective buyer's address based on the capacity of the respective delivery agent and the delivery schedule of the respective delivery agent (see Id.).

W.R.T. **Claim 36:** The modified process of Juedes et al. further discloses the process, wherein the step of allowing an order change that affects the delivery date of the order to be made further includes the step of allowing the order change to be made using an external order interface (see Figs. 1-2 and Supra columns of Kirsch).

W.R.T. **Claim 37:** The modified process of Juedes et al. further discloses the process including the step of updating the electronic manifest with status information (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 39:** The modified process of Juedes et al. further discloses the process, wherein the step of determining a first potential arrival date of the order to a respective delivery agent's location further comprises determining a first potential arrival date of the order, wherein wherein the step of calculating a first potential arrival date of the order to a respective delivery agent's location further comprises the order request date, a model number, a quantity of items, a brand of the item, a service to be selected,

a requested delivery date, the respective buyer's delivery address, a security level clearance and status information (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 40**, Juedes et al. discloses an apparatus comprising (see pages 4-6., Tables 1-14, Figs. 1-18 and the descriptions thereof: means for determining a first potential arrival date of the order to a respective delivery agent's location, based on an order request date and the respective buyer's address (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof; means for determining the ability of the respective delivery agent to ship the order based on the first potential arrival date (see *Id.*); means for determining a delivery date to the respective buyer when there is sufficient delivery agent capacity to ship the order to the respective buyer's address (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof); and means for updating an electronic manifest indicating an order ship date and a change in delivery agent capacity for the delivery date (see *Id.*). Juedes et al does not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are repeated to determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)- (4) for determining a delivery date to repeat the steps to determine a new delivery date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent,

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the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user. However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67). Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 41**, Juedes et al. discloses a method comprising the steps of (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof: calculating a first potential arrival date of the multiple brand order to a respective delivery agent's location, using the server system based on an order request date and a respective buyer's address (see, for example, Figs. 2, 6-7, 10-18 and the descriptions thereof); determining an ability of the respective delivery agent to ship the multiple brand order from the at least two suppliers based on the first potential arrival date, determining a delivery date to the respective buyer when there is sufficient delivery agent capacity to ship the multiple brand order to the respective buyer's address; and updating an electronic manifest indicating the delivery date of the order and a change in delivery agent capacity for the delivery date (see Id.) Juedes et al does not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are repeated to

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determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)- (4) for determining a delivery date to repeat the steps to determine a new delivery date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user. However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67). Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 42**: The modified method of Juedes et al. further discloses the method, wherein the step of calculating a first potential arrival date of the multiple brand order further comprises the step of selecting the first potential arrival date from a supplier ship schedule from each of the at least two suppliers based on the day the multiple brand order is placed plus a fixed delay (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof);

W.R.T. **Claim 43**: The modified method of Juedes et al. further discloses the method, wherein the step of determining an ability of the respective delivery agent to ship further comprises the step of calculating a number of slots to be shipped from a work unit matrix (see Id.).

W.R.T. **Claim 44**: The modified method of Juedes et al. further discloses the method including the step of multiplying each item in the multiple brand order by the work unit selected from a work unit matrix to determine the number of slots for the multiple brand order (see Id.);

W.R.T. **Claim 45**: The modified method of Juedes et al. further discloses the method, wherein the step of determining a delivery date to the respective buyer when there is sufficient capacity to ship the multiple brand order further comprises the step of determining a first available date that the multiple brand order to completely ship the multiple brand order to the respective buyer based on a capacity matrix and based on the number of available slots (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 47**: The modified method of Juedes et al. further discloses the method including the step of getting a zip code to which the multiple brand order is to be delivered and a brand of at least one of respective good in the multiple brand order (see Id.).

W.R.T. **Claim 48**: The modified method of Juedes et al. further discloses the method including the step of getting each of the supplier ship schedules based on the

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zip code and the brand of the at least one respective good ordered (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 49**: The modified method of Juedes et al. further discloses the method including the step of selecting the respective delivery agent and the respective capacity matrix based on the zip code of the multiple brand order (see Id.).

W.R.T. **Claim 50**: The modified method of Juedes et al. further discloses the method including the step of determining a first potential ship date to the respective buyer's address based on the capacity of the respective delivery agent and the delivery schedule of the respective delivery agent (see Id.).

W.R.T. **Claim 51**, Juedes et al. discloses a method comprising the steps of (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof: calculating a first potential arrival date of the order to a respective delivery agent's location, using the server system based on an order request date and the respective buyer's address (see Supra Claims); determining an ability of the respective delivery agent to ship the order based on the first potential arrival date (see Id.); and determining a delivery date to the respective buyer when there is sufficient delivery agent capacity to ship the multiple brand order to the respective buyer's address (see Id.); and updating an electronic manifest indicating the delivery date of the order and a change in delivery agent capacity for the delivery date (see Id.) Juedes et al does not explicitly disclose wherein upon allowance of the order change, steps (1), (2), (3), and (4) are repeated to determine a new delivery date. However, it is obvious that since Kirsch performs steps (1)- (4) for determining a delivery date to repeat the steps to determine a new delivery

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date. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Juedes et al to include repeating steps (1) –(4) so that customer orders are received when expected.

Juedes et al. does not further disclose the method including allowing an order change to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or logistics intermediary, and a (c) a level of the user. However, Marks teaches that a user can make an order change wherein the change is allowed based on type of order change (review, edit, change order), whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or the logistic intermediary, and a level of the user (Tables I & II, col 5, lines 5-55; col 10, lines 20-67). Marks does not disclose wherein the allowance of an order change is based on a security code. Kirsch teaches, for a secure system and method for performing trans-internet purchase transactions, that the invention shows that an order change is made based on a security code (see col. 5, lines 22-27; col. 14, lines 20-65). Since Juedes et al., Kirsch, and Marks are all from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes the step of allowing an order change to be made based on type of

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order change, whether the user is acting as the delivery agent, the buyer, the at least one supplier, the store, or logistics intermediary, a level of the user, and a security code, as taught by Kirsch and Marks, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet.

Marks does not disclose allowing an order change that affects the delivery date of the order to be made by a user that is authorized. However, Baumann et al discloses allowing an authorized user (i.e., vendor within a specific tolerance) to make an order change. Since Juedes et al., and Baumann et al are both from the same field of endeavor, the purpose disclosed by Kirsch and Marks would have been well recognized in the pertinent field of Juedes et al. Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes et al. such that the method includes allowing an order change that affects the delivery date of the order to be made so that a user can provide a time when he/she will be available to receive the order or when the order is necessary.

W.R.T. **Claim 52:** The modified method of Juedes et al. further discloses the method, wherein the step of calculating the first potential arrival date of the multiple brand order further comprises the step of selecting the first potential arrival date from a supplier ship schedule from each of the at least two suppliers based on the day the multiple brand order is placed plus a fixed delay (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 53:** The modified method of Juedes et al. further discloses the method, wherein the step of determining an ability includes the step of calculating the number of slots to be shipped from a work unit matrix (see Id.).

W.R.T. **Claim 54:** The modified method of Juedes et al further discloses the method including the step of multiplying each item in the multiple brand order by a work unit selected from the work unit matrix to determine a number of slots for the multiple brand order (see Id.).

W.R.T. **Claim 55:** The modified method of Juedes et al. further discloses the method, wherein the step of determining the delivery date includes the step of determining the first available date that the order is completely shipped to the buyer based on a capacity matrix and based on the number of available delivery slots (see pages 4-6; Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 57:** The modified method of Juedes et al. further discloses the method including the step of getting a zip code to which the multiple brand order is to be delivered and a brand of at least one respective good in the multiple brand order (see Id.).

W.R.T. **Claim 58:** The modified method of Juedes et al. further discloses the method including the step of getting each of the supplier ship schedules based on the zip code and the brand of the at least one respective good ordered (see pages 4-6, Tables 1-14, Figs. 1-18 and the descriptions thereof).

W.R.T. **Claim 59**: The modified method of Juedes et al. further discloses the method including the step of selecting the respective delivery agent and the respective a capacity matrix based on the zip code of the multiple brand order (see Id.).

W.R.T. **Claim 60**: The modified method of Juedes et al. further discloses the method including the step of determining a first potential ship date to the respective buyer's address based on the capacity of the respective delivery agent and the delivery schedule of the respective delivery agent (see Id.).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shannon S. Saliard whose telephone number is 571-272-5587. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

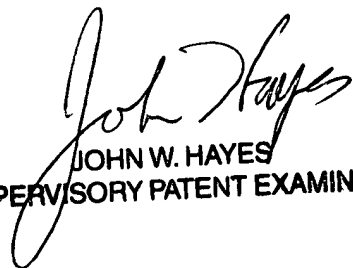
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**JOHN W. HAYES
SUPERVISORY PATENT EXAMINER**

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Art Unit 3628

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